

to a bank in a transaction that is subject to § 563.22(b) of this chapter.

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PART 550—TRUST POWERS OF FEDERAL SAVINGS ASSOCIATIONS

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AUTHORITY: 12 U.S.C. 1462a, 1463, 1464, 1735f-7.

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§ 550.1 Definitions.

(a) *Account* means the trust, estate or other fiduciary relationship which has been established with a Federal savings association;

(b) *Custodian under a uniform gifts to minors act* means an account established pursuant to a state law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute and with respect to which the Federal savings association operating such account has established to the satisfaction of the Secretary of the Treasury that it has duties and responsibilities similar to the duties and responsibilities of a trustee or guardian.

(c) *Fiduciary* means a Federal savings association undertaking to act alone, through an affiliate, or jointly with others primarily for the benefit of another in all matters connected with its undertaking and includes trustee, ex-

ecutor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer, or paying agent, trustee of employee pension, welfare and profit sharing trusts, and any other similar capacity;

(d) *Fiduciary records* means all matters which are written, transcribed, recorded, received or otherwise come into the possession of a Federal savings association and are necessary to preserve information concerning the actions and events relevant to the fiduciary activities of a Federal savings association;

(e) *Guardian* means the guardian, conservator, or committee by whatever name employed by local law, of the estate of an infant, an incompetent individual, an absent individual, or a competent individual over whose estate a court has taken jurisdiction, other than under bankruptcy or insolvency laws;

(f) *Investment authority* means the responsibility conferred by action of law or a provision of an appropriate governing instrument to make, select or change investments, review investment decisions made by others, or to provide investment advice or counsel to others;

(g) *Local law* means the law of the state or other jurisdiction governing the fiduciary relationship;

(h) *Managing agent* means the fiduciary relationship assumed by a Federal savings association upon the creation of an account which names the Federal savings association as agent and confers investment discretion upon the Federal savings association;

(i) *State-chartered corporate fiduciary* means any state bank, trust company, or other corporation which comes into competition with Federal savings associations and is permitted to act in a fiduciary capacity under the laws of the state in which the Federal savings association is located;

(j) *Trust department* means that group or groups of officers and employees of a Federal savings association or of an affiliate of a Federal savings association to whom are assigned the performance of fiduciary services by the Federal savings association;

(k) *Trust powers* means the power to act in any fiduciary capacity authorized by section 403 of the Depository

Institutions Deregulation and Monetary Control Act of 1980, Pub. L. 96-221, 94 Stat. 132, 12 U.S.C. 1464(n). Under the Act, a Federal savings association may be authorized to act, when not in contravention of local law, as trustee, executor, administrator, guardian, receiver, managing agent, registrar of stocks and bonds, escrow, transfer, and paying agent, trustee of employee pension, welfare, and profit-sharing trusts, or in any other fiduciary capacity which state-chartered corporate fiduciaries exercise under local law: *Provided, That* the granting to, and exercise of, such powers shall not be deemed to be in contravention of state or local law whenever the laws of such state authorize or permit the exercise of any or all of the foregoing powers by state banks, trust companies, or other corporations which compete with Federal savings associations.

§ 550.2 Applications.

(a) A Federal savings association desiring to exercise fiduciary powers, either through a trust department or through an affiliate, shall file, in accordance with § 516.1(c) of this chapter, an application indicating which trust services it wishes to offer and providing the information necessary to make the determinations under paragraph (b) of this section.

(b) In addition to any other facts or circumstances deemed proper, the Office, in passing upon an application to exercise trust powers, will give consideration to the following:

(1) The financial condition of the Federal savings association, provided that in no event shall trust powers be granted to a Federal savings association if its financial condition is such that the Federal savings association does not meet the financial standards required by state laws of State-chartered corporate fiduciaries;

(2) The needs of the community for fiduciary services and the probable volume of such fiduciary business available to the Federal savings association;

(3) The general character and ability of the management of the Federal savings association;

(4) The nature of the supervision to be given to the fiduciary activities, including the qualifications, experience

and character of the proposed officer or officers of the trust department; and

(5) Whether the Federal savings association has available legal counsel to advise and pass upon fiduciary matters wherever necessary.

(c) The Regional Director, or his designee, is authorized to approve or disapprove any application filed under this section, that does not raise any significant issues of law or policy on which the Office has not taken a formal position. If each of the following conditions are not met, the Regional Director's (or his designee's) approval of such application must be made conditional upon each being met:

(1) The financial condition of the Federal savings association meets the financial standards prescribed for State-chartered corporate fiduciaries by the laws of each state in which the Federal savings association has offices from which it will offer the fiduciary services (the Regional Director may consider the regulatory capital of a Federal mutual savings association as equivalent to capital stock and surplus when state law prescribes minimum capital stock and surplus requirements) and the Regional Director has determined that the financial condition of the Federal savings association is sufficient to support the proposed trust operations;

(2) The Federal savings association has submitted a legal opinion from independent counsel certifying that the proposed trust powers are authorized for State-chartered corporate fiduciaries by the laws of each State in which the Federal savings association has offices from which it will offer fiduciary services;

(3) The Federal savings association's regulatory capital meets the Office's minimum requirements for that association under § 567.2 or § 567.3 of this chapter;

(4) Based on the most recent examination of the Federal savings association and any other available information, the Regional Director determines that any deficiencies with respect to the Federal savings association's management are minor;